PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - N/S of First Avenue, 200' W of the * DEPUTY ZONING COMMISSIONER c/ı of Baltimore Avenue 13th Election District

* OF BALTIMORE COUNTY 1st Councilmanic District * Case No. 89-219-SPHA Sharon Powell

Petitioner * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve as a building lot 5,108 sq.ft. in lieu of the required 6,000 sq.ft. that will not affect the overall density of the recorded subdivisic. in which the property is located, and a variance to permit a lot width of 50 feet in lieu of the required 55 feet, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared and testified. Also appearing on behalf of the Petition was Nick Commadari, real estate representative and development consultant. There were no Protestants.

Testimony indicated that the subject property, known as Lots 7 and 8 of the "Plat of Section 1, Lansdowne," is zoned D.R. 5.5 and is currently unimproved. Petitioner purchased the subject property in June, 1988 with the intention of building a home; however, when she applied for a building permit she was advised that the lot did not meet area and width requirements. Ms. Powell testified that a number of the lots in the surrounding community are 30 feet wide. Testimony indicated the subdivision was originally filed in June 1899 and at that time consisted of lots 25 feet in width. Ms. Powell indicated the seller of the property owned several lots in this subdivision and had sold to three other individuals two 25-foot wide lots each as buildable lots. Ms. Powell argued that to

Baltimore County Zuning Commissioner Office of Planning & Zoning Towson, Maryland 21204 XXXXXX 887-3353 J. Robert Haines

December 27, 1988

Ms. Sharon Powell 1727 Arlington Avenue Baltimore, Maryland 21227

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE N/S of First Avenue, 200' W of the c/l of Baltimore Avenue 13th Election District - 1st Councilmanic District Sharon Powell - Petitioner Case No. 89-219-SPHA

Dear Ms. Powell:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

Um M Nesterna. on ANN M. NASTAROWICZ Deputy Zoning Commissioner

for Baltimore County

Dennis F. Rasmussen

cc: People's Counsel

deny her request would result in practical difficulty and unreasonable hardship.

Petitioner seeks relief pursuant to Section 500.7 and from Section 1802.3.B, pursuant to Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.).

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) states that the Baltimore County Zoning Commissioner and/or Deputy Zoning Commissioner shall have the power to create variances from an area regulation where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

In reviewing the Petition, it must be kept in mind that "{t}he standard for granting a variance... is... whether strict compliance with the regulations would result in 'practical difficulty or unreasonable

#148

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve to permit a building lot of 5,108 square feet in lieu of the

required 6,000 and determine that this will not effect the overall density of the recorded subdivision

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

	A . a. a. ming I etitioff.
Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	(Type or Print Name)
Signature	Smun Pourul Signature
Address	(Type or Print Name)
City and State Attorney for Petitioner:	Signature
(Type or Print Name)	1727 Arlimton Are Address Phone No.
Signature	Buttimore, ma. 21227 City and State
Address	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted
City and State	Name
Attorney's Telephone No.:	Address 547-8254

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day ---, 19 5, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore day of Dec., 1988, at 2 o'clock

Z.C.O. -No. 1

hardship; and that it should be granted only if in strict harmony with the spirit and intent of the Zoning regulations; and only in such manner as to grant relief without substantial injury to the public health, safety and general welfare." McLean v. Soley.

After due consideration of the testimony and evidence presented, it appears the Petitions for Special Hearing and Zoning Variance should be denied. A zoning variance is not and should not be granted simply because of the ignorance of a prospective buyer. The burden is upon the buyer to check the law. In the opinion of the Deputy Zoning Commissioner, the hardship and practical difficulty is self-created due to the fact that the predecessor in title had enough land to create a perfectly legal and buildable lot; however, he chose to sell only two lots thereby necessitating the requested variance. Petitioner purchased the two 25-foot wide lots in question containing only 5,108 sq.ft total which does not constitute a buildable lot in accordance with the zoning regulations. In the opinion of the Deputy Zoning Commissioner, both the Petitioners' predecessor in title and the Petitioner have created the hardship.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this day of December, 1988 that the Petition for Special Hearing to approve as a building lot 5,108 sq.ft. in lieu of the required 6,000 sq.ft. that will not affect the overall density of the recorded subdivision in which the property is located, and the Petition for Zoning Variance to permit a lot width of 50 feet in lieu of the re-

#148 PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B to permit a lot width of 50' in

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) (purchasea lots 708 not realign the munium refusement is 55/ for weath, lot is only 501

lieu of the required 55'

				tised	as prescribed by Zoning Regulations.
8 8 832*****76p0:	FOR CHARLES COUNTY OF THE STATE OF THE	RECEIVED S	DATE ACCOUNT ACCOUNT	žova V	ariance advertising, posting, etc., upon filing of this and by the zoning regulations and restrictions of a Law For Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Sharon Powell (Type or Print Name) Signature Signature
	City a	nd State		No. 059284	Address Phone No. Same City and State Name, address and phone number of legal owner, contract purchaser or representative to be contacted Sharon Powell
	-				Name
	Attorney	's Telephone	No.:		1727 Arlington Ave. Address Baltimore, Md. Phone No. 247-825

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day County, on the 944 day of Dec., 19 88, at 2 o'clock

DOTIMATED LENGTH OF HEARING (1/24R) +1/(over AVAILABLE FOR MEABING MON./TUES./WED. - NEXT TWO HORSES REVIEWED BY MIK DATE WORK

quired 55 feet, in accordance with Petitioner's Exhibit 1, be and are hereby DENIED.

> ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

. MALMUD & ASSOCIATES, IN 100 CHURCH LANE BALTIMORE, MARYLAND 21208

TELEPHONE (301) 653-9511 DESCRIPTION FOR ZONING VARIANCE LANSDOWNE

Beginning for the same on the north side of First Avenue, 50 feet wide, at distance of 175 feet westerly from the corner formed by the intersection of the west side of Baltimore Avenue, 50 feet wide, and the north side of First Avenue, said point of beginning being at the line of division between Lot 8 and Lot 9 as shown on a plat entitled "Plat of $g_{\rm eff}$ Section One, Lansdowne" recorded among the Land Records of Baltimore County in Plat Book J.W.S. 1 at folio 49, thence binding on First

P.B. J.W.S. 1-49, LOTS 7 & 10

BALTIMORE COUNTY, MARYLAND

(1) North 89° 10' West 50 feet, thence leaving First Avenue and binding on the line of division between Lot 6 and Lot 7:

(2) North 0° 50' East 101.2 feet, thence binding on the north outline of Lot 7 and Lot 8: (3) North 88° 41 East 50.04 feet, thence binding on the line of

division between Lot 8 and Lot 9: (4) South 0° 50' West 103.1 feet to the place of beginning.

Containing 0.12 of an acre of land, more or less.

THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT FOR THE CONVEYANCE

Registered Land Surveyor Maryland No 7558

FILE: LANSDOWNE SHARN 15

#148

RE: PETITION FOR SPECIAL HEARING & : BEFORE THE ZONING COMMISSIONER VARIANCE N/S First Ave., 200' W C/L OF BALTIMORE COUNTY Baltimore Ave., 13th Election Dist.; 1st Councilmanic Dist. : Case No. 89-219-SPHA SHARON POWELL, Petitioner :::::: ENTRY OF APPEARANCE Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. Higheis Cole Friedman Phyllis Cole Friedman People's Counsel for Baltimore County Peter Max Zamena Peter Max Zimmerman Deputy People's Counsel Room 304, County Office Building Towson, Maryland 21204 494-2188 I HEREBY CERTIFY that on this 25th day of November, 1988, a copy of the foregoing Entry of Appearance was mailed to Ms. Sharon Powell, 1727 Arlington Ave., Baltimore, MD 21227, Petitioner. Peter May Trameron 50.04' N 88° 41' E VICINITY MAP Scale: 1 = 2000 LOT. 7 LOT 8 m

FIRST (50'K/W) AVENUE PETITIONER EXHIBIT #

N 89º 10'W 50'

OWNER : SHARON POWELL DEED REF : LOTS 74 8 ... *PLAT OF SECTION 1 LANSDOWNE" P. B. V.W.S. 1 - 49 ZONED: DR 5.5 EXISTING WATER & SEWER IN FIRST AVENUE, AREA = 5108 \$ or 0.12 Ac.

HOUSE IN TINE

WITH EXIST. -

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE 13TH ELECTION DISTRICT BALTIMORE COUNTY, MD. Scale: 1" = 30' Sept. 27,1988 prepared bys M. MALKUD & ASSOCIATES, INC. 100 Church Lane Baltimure, Haryland 21208

Telephone (301) 453-9511

EX 8"57

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

89-219-SPHA

Date of Posting Mesember 14. 1988. Location of property 11/9 First arenue, 200 W C/L Baltimore arenue Location of Signe Month side of First arenve in front of Lets #7 and Posted by S. J. Arata Date of return: Morember 18, 1988 Number of Signes 2

CERTIFICATE OF PUBLICATION

ing: To permit a building lot of 5,106 sq. R. In lieu of the required 6,000 and de-termine that this will not affect the overall density of the recorded subdivision.

IF PHASE II OF SNOW EMERGENCY PLAN IS IN EFFECT ON THIS
DATE, CASE WILL BE
RESCHEDULED, CALL 494-3391 OF
IN the event that this Potition is granter. In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however entertein any request for a stay of the issuence of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. R)BERT HAINES

Zoning Commissioner of Baltimore County

11/503 Nov. 17

TOWSON, MD., november 18, 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive

> THE ARBUTUS TIMES THE JEFFERSONIAN,

5. Zefe Olivan Publisher

PO 05862 case 89-219-5PHA Ealtimore County
Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353 /887-3353 J. Robert Haines Zoning Commissioner

Date: 12.5.88

Ms. Sharon Powell 1727 Arlington Avenue Baltimore, Maryland 21227

> Petitions for Zoning Variance and Special Hearing CASE NUMBER: 89-219-SPHA N/S First Avenue, 200' W c/l Baltimore Avenue 13th Election District - 1st Councilmanic Petitioner(s): Sharon Powell HEARING SCHEDULED: FRIDAY, DECEMBER 9, 1988 at 2:00 p.m.*

Please be advised that 87.06 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Marvland 21204 fifteen (15) minutes before

BALTIMORE COUNTY, MARYLAND hd post set(s), there OFFICE OF FINANCE - REVENUE DIVISION br each set not MISCELLANEOUS CASH RECEIPT K-01-615.000

Dennis F. Rasmussen County Executive

EFFECT ON THIS DATE. or 887-3391 TO CONFIRM

December 2, 1988

VALIDATION OR SIGNATURE OF CASHIER

Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

Baltimore County

October 28, 1988

NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Zoning Variance and Special Hearing CASE NUMBER: 89-219-SPHA N/S First Avenue, 2001 W c/l Baltimore Avenue 13th Election District - 1st Councilmanic Petitioner(s): Sharon Powell HEARING SCHEDULED: FRIDAY, DECEMBER 9, 1988 at 2:00 p.m.*

Variance to permit a lot width of 50' in lieu of the required 55'. Special Hearing: To permit a building lot of 5,108 sq. ft. in lieu of the required 6,000 and determine that this will not effect the overall density of the recorded subdivision.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County

cc: Ms. Sharon Powell

EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE ABOVE HEARING, SUCH HEAR-ING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, JANUARY 12, 1989. PLEASE TELEPHONE DOCKET CLERK AT 494-3391 or 887-3391TO CONFIRM DATE.

89-219-SPHA

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 19th day of October , 1988.

Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

BAI MORE COUNTY, MARY ND

INTER-OFFICE CORRESPONDENCE December 7, 1988 J. Robert Haines Zoning Commissioner

Fat Keller, Deputy Director
FROM Office of Planning and Zoning

The Office of Planning and Zoning has no comment on the above listed projects.

PK/sf

BALTIMOREN COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 2120

> Ms. Sharon Powell 1727 Arlington Avenue

Bureau of Department of

Health Department Project Planning **Building Department** Board of Education Zoning Administratio Industrial Development

Baltimore, Maryland 21227

RE: Item No. 148, Case No. 89-219-SPHA Petitioner: Sharon Powell Petition for Special Hearing and Zoning Variance State Roads Commission

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

> Very truly yours, Janes E. Dyerlet JAMES E. DYER Chairman Zoning Plans Advisory Committee

JED:dt

Enclosures

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 494-3554

October 28, 1988



Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 121, 140, 141, 143, 146, (148) and 149.

Very truly yours, Lichald S. Fluring -

Engineering Associate

MSF/lvw